

consisting of both exhausted and unexhausted claims—a court may dismiss the petition, or, in an exercise of its discretion, grant a stay. Rhines v. Weber, 544 U.S. 269, 273-74 (2005). However, a district court may grant a stay only in “limited circumstances,” namely where petitioner has demonstrated (1) “good cause” for his failure to exhaust, and (2) that his unexhausted claim is “plainly meritorious.” Id. Here, petitioner has not demonstrated “good cause” for his failure to exhaust—indeed, he offers no explanation for his failure whatsoever. Accordingly, his petition is dismissed.

Conclusion

The petition for a writ of habeas corpus is dismissed without prejudice.

The Clerk of Court is ordered to close this case.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York
November 7, 2013

s/Eric N. Vitaliano

ERIC N. VITALIANO
United States District Judge